

HOUSE BILL REPORT

HB 1766

As Reported by House Committee On:
Judiciary

Title: An act relating to discrimination based on lawful source of income.

Brief Description: Prohibiting discrimination based on lawful source of income.

Sponsors: Representatives Ormsby, Darneille, Chase, Miloscia, Nelson, Green, Kagi, Kenney, Morrell and Hasegawa.

Brief History:

Committee Activity:

Judiciary: 2/18/09, 2/19/09 [DPS].

Brief Summary of Substitute Bill

- Prohibits discrimination based on a person's lawful source of income in real estate transactions.
- Creates civil penalties for discrimination based on a person's lawful source of income.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Flannigan, Kirby, Ormsby and Roberts.

Minority Report: Do not pass. Signed by 5 members: Representatives Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Kelley, Ross and Warnick.

Staff: Courtney Barnes (786-7194)

Background:

Under the Washington Law Against Discrimination (WLAD), it is an unfair practice to discriminate in real estate transactions based on race, creed, color, national origin, sex, honorably discharged veteran or military status, sexual orientation, families with children

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status, the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a person with a disability. A real estate transaction includes the sale, purchase, rental, or leasing of real property.

The Washington State Human Rights Commission (Commission) is responsible, in part, for administering and enforcing the WLAD. The Commission receives and investigates complaints that allege unfair practices in violation of the WLAD. If the Commission finds that there is reasonable cause to believe that discrimination has occurred, it must first try to eliminate the unfair practice through conference and conciliation. If the parties do not reach an agreement, the Commission must refer the matter to an administrative law judge who may, after a hearing on the matter, issue an order providing relief to the complainant.

If an administrative law judge determines that the respondent engaged in discrimination in a real estate transaction, he or she may award damages and injunctive relief. In addition, the administrative law judge may assess a civil penalty against the respondent up to \$50,000, depending on whether the respondent has committed any unfair practices in the past.

Summary of Substitute Bill:

It is an unfair practice for any person to discriminate in a real estate transaction with a person because of the person's lawful source of income. "Lawful source of income" means verifiable legal income used in the renting or leasing of real property, including income derived from:

- employment;
- social security;
- supplemental security income;
- other retirement programs;
- child support;
- alimony; and
- any federal, state, local government, or nonprofit-administered benefit or subsidy program, including housing assistance, public assistance, and general assistance programs.

The prohibition on discrimination based on a person's lawful source of income does not apply to real estate transactions involving the sharing of a dwelling or the rental or sublease of a portion of a dwelling when the dwelling is occupied by the owner or sublessor.

If an administrative law judge finds that the respondent has engaged in discrimination in a real estate transaction based on a person's lawful source of income, the judge may award actual damages and injunctive relief, and may assess the respondent a civil penalty of:

- a maximum of \$10,000 for the first unfair practice in a real estate transaction;
- a maximum of \$25,000 if the respondent has committed one other unfair practice in a real estate transaction within a five-year period; or
- a maximum of \$50,000 if the respondent has committed two or more unfair practices in a real estate transaction within a seven-year period.

Substitute Bill Compared to Original Bill:

The original bill did not limit the definition of "lawful source of income" to income used in the renting or leasing of real property.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill addresses the need for safe and affordable housing. The bill prevents landlords from discriminating against individuals who receive public assistance. Many people who receive public assistance are turned away by landlords who refuse to accept these legal sources of income. Twelve other states provide a protection from discrimination based on lawful source of income.

Many participants in the federal Housing and Urban Development Section 8 program (Section 8) cannot find housing because landlords refuse to accept Section 8 vouchers. If Section 8 participants cannot find a landlord who will accept their housing voucher within a certain period of time, the participant loses the voucher. The bill prevents landlords from discriminating against tenants who have Section 8 vouchers, but it will not prevent landlords from charging market-rate rents.

(Opposed) Private landlords already rent to low-income tenants who receive public assistance. The bill would require landlords to enter into a contract with a local housing authority and participate in the Section 8 program. The Section 8 program is voluntary, and landlords should not be required to participate. The bill would require landlords to accept Section 8 voucher holders even when they have a legitimate reason to reject their rental application.

Unlike the complaints made under the Residential Landlord-Tenant Act, the bill allows complaints to be filed with the Human Rights Commission, and landlords may be assessed penalties up to \$50,000. The definition of "lawful source of income" is too broad. The bill needs to be clarified so that it does not apply to mortgage transactions because lenders need to consider income as part of a mortgage transaction.

Persons Testifying: (In support) Representative Ormsby, prime sponsor; Shawnie McAdams, Governor's Committee on Disability Issues and Employment; Carolyn Robinson, King County Housing Authority; Jacque Larrainzar, Seattle Office for Civil Rights; Eric Dunn, Northwest Justice Project; Chris Jussero, Tenant Union of Washington State; Tiffany Mueller, Low-Income Housing Institute; and Ann Levine, Saint Andrews Housing Group.

(Opposed) Julie Johnson, Rental Housing Association of Puget Sound; Joe Puckett, Washington Multi-Family Housing Authority; Chuck Beck, Washington Landlord Association; Gary Gardner, United Financial Lobby; Ron Newbry, Yakima Valley Landlords Association; Bob Mitchell, Washington Realtors; and Doug Neyhart, Rental Housing Association.

Persons Signed In To Testify But Not Testifying: None.